

## **REMARKS**

Claims 1, 3-8, 18, 20-26, 36 and 38-44 are pending in the application. Claims 1, 3-8, 18, 20-26, 36 and 38-44 stand rejected.

Claims 1 and 3-8 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 1 has been amended to address this rejection

Claims 1, 3-8, 18, 20-26, 36 and 38-44 are rejected under 35 U.S. C. 103(a) as being unpatentable over Corbett, Delivery Window – A New View On Improving Manufacturing Flexibility and On-Time Performance (1992) (Corbett) in view of Chowdhary et al., U.S. Patent No. 7,212,991 (Chowdhary).

The present invention generally relates to scheduling manufacturing of an item such that the item may be shipped using a lower cost shipping method while meeting a customer's expressed desire to have the item arrive according to an expedited shipping method. It is well established that expedited shipping generally refers to delivery within one to three business days whereas delivery that takes longer than one to three business days is considered a lower cost shipping method (e.g., ground shipping).

More specifically, the present invention, as set forth by independent claim 1, relates to a method for scheduling manufacture of an item in a factory. The method includes obtaining a customer order, the customer order including an item ordered by a customer, the customer order including a desired shipping schedule, the desired shipping schedule corresponding to an expedited shipping method; planning a time for manufacturing the item so as to have the manufacture of the item complete during a desired shipping window; determining the desired shipping window so as to allow the item to be shipped via a lower cost shipping method while arriving at a destination as if shipped via an the expedited shipping method; and, scheduling manufacturing of the item based upon the determining. Claim 18 relates to a system of similar scope and claim 36 relates to an apparatus of similar scope.

Corbett generally discloses work scheduling and capacity management using delivery windows.

The examiner sets forth that on-time delivery as discussed by Corbett discloses determining a shipping window so as to allow an item to be shipped via a lower cost shipping method while arriving at a destination as if shipped via an expedited shipping method. However, it is respectfully submitted that nowhere within Corbett is there even a recognition of the problem addressed by the present invention, much less the way the present invention addresses this problem by determining a desired shipping window so as to allow the item to be shipped via a lower cost shipping method while arriving at a destination as if shipped via an the expedited shipping method or of planning a time for manufacturing an item so as to have the manufacture of the item complete during the desired shipping window, much less determining the desired shipping window so as to allow the item to be shipped via a lower cost shipping method while arriving at a destination as if shipped via an the expedited shipping method, as required by claim 1 and as substantially required by claims 18 and 36.

Additionally, when discussing Corbett, the examiner set forth:

While expedited shipping (priority, overnight, rush, etc.) is old and very common business practice wherein business' frequently use expedited shipping to ensure on-time delivery performance or customers desiring to receive their items as soon as possible Corbet does not expressly teach that the customer order desired shipping schedule corresponds to an expedited shipping method or that the shipping window is determined so as to allow the item to be shipped via a lower cost shipping method while arriving at a destination (any destination) as if shipped via the expedited shipping method as claimed. (Office action dated August 28, 2008)

The examiner cites to Chowdhary as a disclosure of determining a desired shipping window so as to allow the item to be shipped via a lower cost shipping method while arriving at a destination as if shipped via the expedited shipping method.

Chowdhary appreciates the issue associated with shipping goods from different geographic locations often results in varying expenses for the vendor, where the varying expenses may be determined by the shipping service selected. (See e.g. Chowdhary, Col. 1, lines 33 -43.) Chowdhary discloses an optimal deal finder 32 which gathers product and vendor information as well as shipping information to select a shipping vendor that optimizes a transaction. (See e.g., Chowdhary, Col. 10, lines 46 – 57.) Chowdhary further discloses an

example where a shipping vendor, due to geographic locality, can ship an item via ground shipping and still arrive the next day. (See e.g., Chowdhary, Col. 13, lines 44 -50.)

However, it is respectfully submitted that nowhere within Chowdhary is there any disclosure or suggestion of planning a time for manufacturing an item so as to have the manufacture of the item complete during a desired shipping window, much less determining the desired shipping window so as to allow the item to be shipped via a lower cost shipping method while arriving at a destination as if shipped via an the expedited shipping method, as required by claim 1 and as substantially required by claims 18 and 36.

More specifically, Corbett and Chowdhary, taken alone or in combination, do not teach or suggest a method for *scheduling manufacture of an item in a factory*, much less such a method that includes obtaining a customer order which includes an item ordered by a customer and a desired shipping schedule where the desired shipping schedule corresponds to an expedited shipping method; planning a time for manufacturing the item so as to have the manufacturing of the item complete during a desired shipping window, *determining a desired shipping window so as to allow the item to be shipped via a lower cost shipping method while arriving at a destination as if shipped via an the expedited shipping method*; and, *scheduling manufacturing of the item based upon the determining*, all as required by Claim 1 and as substantially required by claims 18 and 36. Accordingly, Claims 1, 18 and 36 are allowable over Corbett and Chowdhary. Claims 2-8 depend from Claim 1 and are allowable for at least this reason. Claims 19-26 depend from Claim 18 and are allowable for at least this reason. Accordingly, Claim 36 is allowable over Corbett and Chowdhary. Claims 37-44 depend from Claim 36 and are allowable for at least this reason.

## **CONCLUSION**

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned at 512-338-9100.

The Commissioner is authorized to deduct any additional fees, which may be necessary, and to credit any overpayment to Deposit Account 502264.

### CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being electronically submitted to the COMMISSIONER FOR PATENTS via EFS on November 25, 2008.

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Respectfully submitted,

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